statute of frauds is no defense, and the trust will be enforced. *Chace* v. *Gardner* (Mass. 1917) 117 N. E. 841.

Where land is conveyed under a parol promise that it be held in trust, the statute of frauds will prevent the enforcement of the trust. *Fillingham* v. *Nichols* (1900) 108 Wis. 49, 84 N. W. 15; Perry, Trusts (6th ed.) § 79. But equity will generally permit the grantor to recover the property on the theory of unjust enrichment. *Greenley* v. *Shelmidine* (1903) 83 App. Div. 559, 82 N. Y. Supp. 176; see *Goldsmith* v. *Goldsmith* (1895) 145 N. Y. 313, 39 N. E. 1067. Hence it ought to permit the recovery of the proceeds on the same theory. *Greenley* v. *Shelmidine, supra.* If there is an express oral agreement to sell the land and hold the proceeds in trust, equity will not force the grantee to make the sale, since a contract to sell lands is also within the Statute of Frauds. *Walters* v. *Walters* (1916) 172 N. C. 328, 90 S. E. 304; see *Bork* v. *Martin* (1892) 132 N. Y. 280, 30 N. E. 584. But if the lands have already been sold at the time the beneficiary files his bill, most courts have enforced the agreement as to the proceeds as an oral trust of personalty. *Logan* v. *Brown* (1908) 20 Okla. 334, 95 Pac. 441; *Talbott* v. *Barber* (1894) 11 Ind. App. 1, 38 N. E. 487; *Bork* v. *Martin, supra.* This latter agreement can stand entirely on its own feet, and the case falls within the general rule that where that part of an agreement which is within the Statute of Frauds has been performed, the statute no longer applies. *Cf. Zwicker* v. *Gardner* (1912) 213 Mass. 95, 99 N. E. 949. But some courts hold that the agreement is an attempt to create an oral trust in lands, or a contract for the sale of lands, and refuse to enforce a trust as to the proceeds. *Johnson* v. *McKenzie* (1916) 80 Ore. 160, 156 Pac. 791; *Grantham* v. *Conner* (1916) 97 Kan. 150, 154 Pac. 246; *White* v. *McKenzie* (1916) 193 Mich. 189, 159 N. W. 367. If however the grantor voluntarily declares himself a trustee of his own lands, and agrees to hold the proceeds of the land in trust, a different situation arises. While equity will enforce a voluntary trust which is completely declared, *Watson* v. *Payne* (1910) 143 Mo. App. 721, 128 S. W. 238, it will not compel the trustee to create the trust. Since there is no enforceable trust as to the land, and the promise as to the proceeds is without consideration, it would seem that the promisor should be allowed to repudiate at any time before selling the land, as otherwise equity would be in effect compelling the creation of the trust. Nor would it seem that the mere sale of the land without prior declaration of revocation should be considered as creating an enforceable trust of the proceeds. Since the trustee is not bound to perform, there must be proof that he did perform, and the mere sale of the property and receipt of the proceeds would hardly be sufficient evidence. But where the trustee keeps the proceeds as a fund apart from the remainder of his property, or in any other way shows that he is holding the proceeds as a trust fund, it would seem that a valid enforceable trust had arisen. See *Watson* v. *Payne, supra.*

WORKMEN'S COMPENSATION ACTS—CASUAL AND EMERGENCY EMPLOYEES HIRED BY OTHER EMPLOYEES.—The defendant's driver, in the course of his employment, requested the plaintiff to assist him in removing his wagon from the mire and while so engaged the plaintiff was injured. *Held,* an emergency existed sufficient to give the driver authority to employ the plaintiff and, since the service, though casual, was in the usual course of the master's business, the defendant was liable under the

compensation act. *Neinaber* v. *District Court of Ramsey County* (Minn. 1917) 165 N. W. 268.

Before the era of workmen's compensation acts, it was generally settled that there could be no recovery from an employer, on the basis of his duty toward an employee, by one assisting at the request of an employee, *Atlanta, etc. R. R.* v. *West* (1905) 121 Ga. 641, 49 S. E. 711; *Everhart* v. *Terre Haute, etc. R. R.* (1881) 78 Ind. 292, on the ground that the employee had no authority to hire. *Church* v. *Chicago, etc. Ry.* (1892) 50 Minn. 218, 52 N. W. 647; *Kentucky, etc. Co.* v. *Nicholson* (1914) 157 Ky. 812, 164 S. W. 84. But, as an exception to the rule, in the case of an emergency it was uniformly implied that the situation conferred a valid authority to obtain help, see *Marks* v. *Rochester Ry.* (1895) 146 N. Y. 181, 190, 40 N. E. 782, and accordingly an employer was held to be under a duty to one hired by an employee during an emergency. *Louisville, etc. R. R.* v. *Ginley* (1897) 100 Tenn. 472, 45 S. W. 348; see *Georgia, etc. Ry.* v. *Propst* (1887) 83 Ala. 518, 3 So. 764; *Aga* v. *Harbach* (1905) 127 Iowa 144, 102 N. W. 833. The fact of the emergency was a question for the jury. *Central, etc. Co.* v. *Miller* (1912) 147 Ky. 110, 143 S. W. 750; see *Marks* v. *Rochester Ry., supra.* A recovery in "emergency" cases would naturally not be denied under a compensation act broad enough to include casual employments, provided the emergency occurred in the usual course of business. If it is necessary to the business, the employment may be in the usual course, even though the cause requiring it was unusual. Since all emergency employments are necessarily casual, it should be determined preliminarily whether the particular statute embraces casual employments. If it does not, the remedy of the statute may not be claimed; *Le Grande, etc. Co.* v. *Pillsbury* (1916) 173 Cal. 777, 161 Pac. 988; but, as in the principal case, unless it specifically excludes them, it will be deemed to include them. See *Matter of Rheinwald* (1915) 168 App. Div. 425, 153 N. Y. Supp. 598.

WORKMEN'S COMPENSATION ACTS—EXCLUSIVENESS OF REMEDY—EXTRA-TERRITORIALITY.—The plaintiff's decedent was killed in New York while discharging his duties under a contract of hire made in New Jersey. An action for damages was brought against his employer by the plaintiff as administratrix in New York. *Held,* that the New Jersey Compensation Law was a bar to this action. *Barnhart* v. *American Concrete Steel Co.* (App. Div. 2nd Dep't. 1917) 167 N. Y. Supp. 475.

The remedy given to an employee by a compensation act is generally exclusive; *Shannahan* v. *Monarch Engineering Co.* (1916) 219 N. Y. 469, 114 N. E. 795; *Peter* v. *Mills* (1913) 76 Wash. 437, 136 Pac. 685; and hence when an employee is brought under the act of a particular state, he can maintain no common law action for an injury received within that state in the course of his employment. *Albanese* v. *Stewart* (1912) 78 Misc. 581, 138 N. Y. Supp. 942; *Johnson* v. *Nelson* (1915) 128 Minn. 158, 150 N. W. 620. Where, however, the terms of an act do not apply the employee may avail himself of other remedies. *Shinnick* v. *Clover Farms Co.* (1915) 169 App. Div. 236, 154 N. Y. Supp. 423. The question raised in the principal case is whether an act binding an employee in one state can prevent him from bringing a common law action in another state in which he suffered an injury in the course of employment. Since workmen's compensation is not merely a new tort remedy but also a form of social insurance, its real purpose is